

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE INSPECTOR GENERAL**

**UNEMPLOYMENT COMPENSATION  
PAYMENTS TO  
DISTRICT OF COLUMBIA  
GOVERNMENT EMPLOYEES**



**CHARLES C. MADDOX, ESQ.  
INSPECTOR GENERAL**

**OIG-6-99-CF-9920**

**September 10, 1999**

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Inspector General

Charles C. Maddox, Esq.  
Inspector General



September 10, 1999

Arlene Ackerman  
Superintendent  
825 North Capitol Street, N.E.  
9<sup>th</sup> Floor  
Washington, D.C. 20002

Dear Ms. Ackerman:

Enclosed is the final report on the audit of "Unemployment Compensation Payments to District of Columbia Government Employees" (OIG-6-99-CF-9920).

We determined that, for the audit period Fiscal Years 1996 through 1998, over \$2.2 million in summer unemployment benefits were paid to District of Columbia Public Schools (DCPS) employees who were still employed as of January 1, 1999. Although DCPS and Department of Employment Services (DOES) personnel were familiar with the "reasonable assurance" provisions of the law, the DCPS personnel had not developed the policies and procedures needed to implement the "reasonable assurance" provisions of D. C. Code Section 46-110-(7). Controls had not been established to prevent summer unemployment payments to educational personnel who returned to work at the end of the vacation period. We noted instances where educational aides routinely returned year after year and received summer unemployment benefits, but were identified each year as having no "reasonable assurance" that they would return at the start of the new academic year.

We recommended that the Superintendent of DCPS: (i) Develop policies and procedures for implementing the reasonable assurance provisions of D.C. Code Section 46-110-(7); (ii) Require that the DCPS Human Resource Division personnel submit to DOES the names of those individuals with high performance ratings who are expected to return at the start of the new academic year and are ineligible for summer unemployment benefits; and (iii) Require the District Office of Personnel Unemployment Compensation Monitoring Unit to monitor DCPS employees who are receiving unemployment compensation to ensure that these employees are following the provisions of the code.

In commenting on a draft of this report, the Superintendent cited specific actions to correct the deficiencies. These comments are incorporated as appropriate in the report. The full text of the response to this report is included as Appendix A.

Arlene Ackerman  
Superintendent  
September 10, 1999  
Page 2 Of 2

Should you have any questions on this report or need additional information, please contact me at (202) 727-2540 or John N. Balakos, Assistant Inspector General for Audits, at (202) 727-8279.

Sincerely,



for Charles C. Maddox, Esq.  
Inspector General

Enclosure

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## APPENDIX

### A: DCPS COMMENTS ON THE DRAFT REPORT

# EXECUTIVE DIGEST

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## OVERVIEW

This report summarizes the Office of the Inspector General's (OIG) audit of the Unemployment Compensation Payments to the District of Columbia Government Employees. The OIG conducted this audit in response to a Councilmember's concern of possible mismanagement of the District's Unemployment Compensation Fund. In response to the request, we performed an audit of the program to ascertain whether the District limited unemployment benefits only to eligible beneficiaries. We included all agencies within the District of Columbia to determine which agencies had a high percentage of unemployment payments.

We determined that there is no meaningful relationship between reduction in force (RIF) actions and unemployment claims. Although RIF actions can result in unemployment claims, there are a variety of reasons other than RIF actions that result in unemployment claims. The most common example would be probationary employees who at the end of their probationary period do not meet the standards for continued employment.

Our audit noted that a significant number of unemployment claims were paid to DCPS employees who were still employed.

## CONCLUSIONS

We determined that, for the audit period Fiscal Years 1996 through 1998, over \$2.2 million in summer unemployment benefits were paid to District of Columbia Public School employees who were still employed as of January 1, 1999. Although DOES and DCPS personnel were familiar with the "reasonable assurance" provisions of the law, the DCPS personnel had not developed the policies and procedures needed to implement the "reasonable assurance" provisions of D. C. Code Section 46-110-(7). Controls had not been established to prevent summer unemployment payments to educational personnel who returned to work at the end of the vacation period. We noted instances where educational aides routinely returned year after year and received summer unemployment benefits, but were identified each year as having no "reasonable assurance" that they would return at the start of the new academic year.

We met with the DCPS staff, and they agreed to put a system in place which will identify personnel who are expected to return the next academic year and who, consequently, will be ineligible for summer unemployment benefits. We were subsequently informed by DCPS staff that a system for corrective action is in place.

## CORRECTIVE ACTIONS

We directed three recommendations to the Superintendent of DCPS that represent necessary action to correct the deficiencies described above. The recommendations are as follows:

- develop policies and procedures for defining "reasonable assurance" and for implementing the provisions of D. C. Code Section 46-110-(7);
- require DCPS Human Resource Division personnel to provide the names of education aides with high performance ratings annually to DOES personnel as having reasonable assurance of returning the next school year and thereby ineligible for summer unemployment benefits; and
- require the District's Office of Personnel Unemployment Compensation Monitoring Unit (UCMU) to monitor DCPS employees who are receiving unemployment compensation to ensure that these employees are following the provisions of D. C. Code Section 46-110-(7).

The DCPS provided a formal response to the recommendations in our draft report, which is included as Appendix A. In general, management concurred with the report, and indicated the actions taken or planned to address each recommendation.

# INTRODUCTION

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## BACKGROUND

The DOES's Office of Unemployment Compensation (OUC) has primary responsibility for assuring compliance with the District's Unemployment Compensation law. The D. C. Office of Personnel's UCMU, represents the District in all unemployment matters involving employees of the District government. Individuals applying for unemployment prepare an Initial Claim, DOES Form UC-170, at one of several Neighborhood Employment Service Centers.

The OUC performs the monetary determination test. The OUC, through the District Unemployment Compensation Automation System (DUCAS), generates a Monetary Determination Form (UC-400) which provides monetary eligibility information and calculates the claimant's weekly monetary payment. The amount of benefit a claimant receives is based primarily on length of service and base pay during that period. The maximum amount a claimant can receive is \$309 per week for 26 weeks or approximately \$8,000 annually.

The UCMU represents the District in events connected to the claimant's separation, and performs the non-monetary test. The non-monetary test involves determining whether the claimant is eligible to receive benefits, i.e., is the claimant unemployed through no fault of his/her own and ready, willing, and able to work.

The DCPS personnel comply with the reasonable assurance provisions of D. C. Code, Title 46-110 (7) by using the UC Form 102. The DOES representatives initiate a Form UC 102 "Request For Employee Status Information." The Forms UC 170 and 102 are forwarded to the UCMU. The official employer representative in turn forwards the forms to the DCPS personnel office. On August 6, 1997, the Maryland Department of Labor Appeals Division (Appeals Case No. 9714021) provided:

To meet the reasonable assurance standard, an employer need not demonstrate that an employee is guaranteed the job in the next academic semester. Rather, the employer must establish that the claimant has a reasonable expectation of being recalled to perform the same or similar services. \*\*\*\*In this case, because the claimant performed the services in the first of two successive academic terms or years and has a reasonable assurance that he will perform the service in a second successive academic term or year, benefits must be denied in accordance with Section 8-909 (C).

The form requires school representatives to indicate the claimant's position held within the school system and to indicate "yes" or "no" as to whether the claimant has

been given reasonable assurance that he/she will perform similar services when school resumes. If the DCPS personnel determine that there is no reasonable assurance that the claimant will perform similar services when school resumes, the form is completed by checking "no" in the space provided.

DOES also holds a mass registration each year during the last week of the normal school session for DCPS employees who will not be employed during the summer school months of July and August. If an individual is given reasonable assurance that he/she will perform similar services when school resumes, the school representative will indicate the date that the individual was given reasonable assurance, attach the supporting documentation, and return it to DOES Neighborhood Employment Service Center within seven days from the date of the application.

The unemployment benefits cited in this audit report were incurred from FY 1996 through FY 1998. Subsequent to that period a new Superintendent of the DCPS was appointed. Also, because of a major RIF, a new Director of Human Resources and key staff members of that department were appointed. All of the unemployment benefit payments cited in this report were incurred prior to their tenure.

## **OBJECTIVES**

The audit objectives were to determine whether the District limited unemployment benefits to only eligible beneficiaries and if possible mismanagement existed within the Unemployment Compensation Fund.

## **SCOPE AND METHODOLOGY**

The OIG conducted an audit of unemployment compensation payments to former DCPS employees. The audit scope covered October 1, 1995, through September 30, 1998. The audit was initiated in response to a Councilmember's concern of possible mismanagement of the District's Unemployment Compensation Fund. The Councilmember's concern focused on the disproportionate number of over 3,000 former District employees filing unemployment claims, even though no more than 800 RIF actions were issued to former District employees.

To accomplish our objectives, we performed limited tests of other agency unemployment claims and found those claims to be properly supported. Accordingly, the scope of the audit was focused on the unemployment compensation claims of former employees of the DCPS. In focusing on those claims, we determined that the claims were based on the reasonable assurance provisions of D. C. Code Title 46-110-(7). The District paid approximately \$2.2 million in unemployment benefits to former District employees during the period Fiscal Year 1996 through Fiscal Year 1998.

Our audit was performed in accordance with generally accepted government auditing standards.



## RESULTS OF AUDIT

### FINDING : UNEMPLOYMENT BENEFITS PAID TO EDUCATIONAL AIDES

**SYNOPSIS** For the three Fiscal Years 1996 through 1998, DOES paid over \$2.2 million in summer unemployment benefits to school employees who were still employed as of January 1, 1999. The audit identified 134 individuals employed for greater than five years who returned to work each year and who were paid summer unemployment benefits. The school officials had previously indicated that there was no reasonable assurance that the 134 individuals would return to work.

**AUDIT RESULTS** The DCPS lacked policies and procedures needed to implement the "reasonable assurance" provisions for D. C. Code Section 46-110-(7). Consequently, lower level school administrative personnel interpreted the "reasonable assurance" provisions of Section 46-110-(7) as requiring "guaranteed assurance" and routinely authorized summer unemployment benefits to educational aides. The educational aides had reasonable assurance that they would return at the end of summer.

The DCPS has not defined or published guidance needed to implement the "reasonable assurance" provisions for District of Columbia Code Section 46-110-(7)(A). Abbreviated, Section 46-110 provides "... benefits based on service in an institution of higher education ... shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years ... if the individual has a reasonable assurance of performing services in any such capacity or institution or institutions of higher education for both academic years of both such terms."

In the absence of policy guidance, administrative personnel gave blanket declarations of "no assurance" to all of the estimated 500 educational aides applying for summer unemployment benefits. The "no assurance" was generated when school administrative personnel checked "no assurance" on the Form UC 102 "Request For Employee Status Information." In our review of Form UC 102's for educational aides, we found no Form UC 102's where administrative personnel checked "yes" indicating that there was reasonable assurance that the individual would return to work in the next academic year.

Additionally, we found no indication that individuals' personnel files had been reviewed or that any school officials had been contacted by the DCPS Human Resource Division personnel. In fact, the sheer volume of summer unemployment claims filed would have prevented the two DCPS administrative personnel from compiling the data and documentation needed to support a "yes" for reasonable assurance on the Form UC 102, and from responding within the required seven-day response period. We noted that two different DCPS administrative personnel approved the Form UC 102's. One of the

two individuals was an employee of the Finance Department with no apparent training in personnel issues. During the course of our audit, neither of the two individuals was still employed by the school system. Therefore, we were unable to determine the exact process they went through in assessing the reasonable assurance issue.

We interviewed nine school principals to determine their familiarity with the provisions of D. C. Code Section 46-110-(7)-(A), and to determine if the principals had provided reasonable assurances to their education aides that they would be returning to work at the end of summer for the next academic year. None of the principals was familiar with 46-110-(7)-(A). All principals indicated that they had not been asked if there were reasonable assurance that their aides would be returning to work at the end of summer for the following school year.

The principals that we spoke with described how each education aide is rated in either March or April on their performance during the current school year. Education aides receiving less than satisfactory ratings are advised that they will not be offered employment in the fall. However, education aides receiving satisfactory ratings, and who have indicated their desire to return, are advised that they will be rehired based on the availability of funding. The information was conveyed verbally to the aides and, because of the absence of policy, not reduced to writing. The school principals also indicated that the aides were included in their staffing guides for the following school year. Based on our discussion with the school principals, we concluded that education aides have reasonable assurance as early as March preceding the summer vacation period of returning the next school year.

We reviewed the personnel files of educational aides, maintained by the DCPS Office of Human Resources, who had applied for and received summer unemployment benefits. We randomly reviewed the personnel files of 34 educational aides. Most educational aides are classified as temporary employees and are reappointed each year through a Form 1, Personnel Action. The contents of their personnel files, specifically the Forms 1, were reviewed to determine if there was evidence to show that the educational aides would be performing similar services at the start of the next academic year.

Our review of the personnel files found that 17 of the 34 files reviewed for educational aides contained Forms 1 supporting their reappointment for the two year period, October 1, 1997, through September 30, 1999. Thus, for these aides, there was more than reasonable assurance that they would be performing similar services at the start of the fall academic year and, therefore, would not have qualified for unemployment benefits for the summer of 1998.

The remaining 17 files reviewed were incomplete. We were advised that the 1998 Forms 1 for the 17 files had not been filed because of the schools recent relocation, and some Forms 1 were still packed in moving boxes. All 34 aides received summer unemployment benefits for the summer of 1998.

We met with the DCPS staff and they have agreed to put a system in place which will identify personnel who are expected to return the next academic year and ineligible for summer unemployment benefits.

### RECOMMENDATIONS

We recommended that the Superintendent of DCPS:

1. Develop policies and procedures for defining "reasonable assurance" and for implementing the provisions of D. C. Code Section 46-110-(7);
2. Require DCPS Human Resource Division personnel to provide the names of education aides with high performance ratings annually to DOES personnel as having reasonable assurance of returning the next school year and thereby ineligible for summer unemployment benefits; and
3. Require the District's Office of Personnel UCMU to monitor DCPS employee who are receiving unemployment compensation to ensure that these employees are following the provisions of D. C. Code Section 46-110-(7).

### DCPS'S RESPONSE

DCPS agreed with our recommendations and has begun the implementation of corrective actions to address the deficiencies described in the report.

DCPS also enclosed letters issued by the divisions of Food and Nutrition and Transportation to employees indicating summer work status and rehire status for the upcoming school year. Additionally, newly hired temporary teachers will receive a three-year certification, which will remove the yearly re-certification process and allow for reasonable assurance of rehire. Also, the Weighted Student Formula staffing model will enable the Human Resources Division to generate and forward to the Department of Employment Services a listing of educational aides returning the following school year.

### OIG's COMMENTS

The actions taken by DCPS meet the intent of the recommendations.



DISTRICT OF COLUMBIA  
PUBLIC SCHOOLS

*Office of the Superintendent*

825 North Capitol Street, N. E., 9th Floor  
Washington, D.C. 20002-4232  
202-442-5885, fax: 202-442-5026  
www.k12.dc.us

August 26, 1999

Charles C. Maddox, Esq.  
Inspector General  
717 14<sup>th</sup> Street, NW  
5<sup>th</sup> Floor  
Washington, DC 20005

Dear Mr. Maddox:

I have reviewed the recommendations presented in your July 29, 1999 letter concerning summer unemployment benefits paid to school employees. The District of Columbia Public School system is in agreement with the recommendations and has begun the implementation of corrective actions to relieve the deficiencies described in the draft report by the Office of the Inspector General.

Several policies and procedures were enacted during the 1998-99 school year to comply with the provisions of D.C. Code Section 46-110-(7), "reasonable assurance". Enclosed are letters issued by the divisions of Food and Nutrition and Transportation to employees indicating summer work status and rehire status for the upcoming school year. These documents were attached to the UC Form 102 as notification of reasonable assurance for rehire. Additionally, newly hired temporary teachers will receive a three-year certification, which will remove the yearly re-certification process and allow for reasonable assurance of rehire.

The implementation of the Weighted Student Formula staffing model will enable the Human Resources Division to generate and forward to the Department of Employment Services (DOES) personnel a listing of educational aides returning the following school year.

Should you have any questions or need additional information, please contact me on 202/442-5885 or Ms. Katrina Robertson Reed, Association Superintendent for Administrative Services, on 202/442-5344.

Respectfully,

Arlene Ackerman  
Superintendent

Enclosures (2)



**DISTRICT OF COLUMBIA  
PUBLIC SCHOOLS**

***Categorical Programs and Development***

***Division of Food and Nutrition Services***

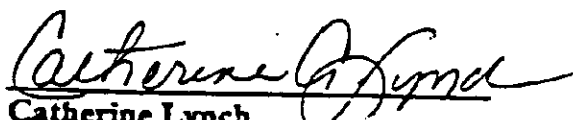
3535 "V" Street, N.E., Washington, D.C. 20018-1589

Phone: 202-576-7400, Fax: 202-576-6369

**MEMORANDUM**

**TO:** Food and Nutrition Services  
Cafeteria Personnel

**FROM:**

  
Catherine Lynch  
Director

**SUBJECT:** Food and Nutrition Closing Procedures

**DATE:** May 14, 1999

The last day of work for all Food and Nutrition employees for School Year 1998-99 will be June 18, 1999. All employees will be notified by mail when they are to report back to work for School Year 1999-2000.

It is extremely important that we have a current address and telephone number on file for all employees before you leave for the vacation months. Site supervisors are responsible for completing the staffing sheet (s) and returning it to their Area Manager no later than June 4, 1999. Employees it is your responsibility to provide this information to your site supervisor. If you have a change of address or telephone number before the start of the fall semester, please notify the Operations Section of the changes at (202) 576-7407/08/09. We will not be responsible for you not receiving notice regarding your employment status.

Have a wonderful vacation. If you have any questions or concerns, please direct them to the Area Manager responsible for your site.

**Cc:** Mary Elizabeth Beach  
Katrina Robertson Reed  
Ava Greene Davenport  
Alfred S. Jacobs



DISTRICT OF COLUMBIA  
PUBLIC SCHOOLS

*Office of Special Education*  
Division of Transportation  
Lemuel Penn Center  
1709 3rd Street, N.E., 2nd Floor  
Washington, D.C. 20002-1290  
202-576-6228, fax: 202-576-6871  
www.k12.dc.us

June 8, 1999

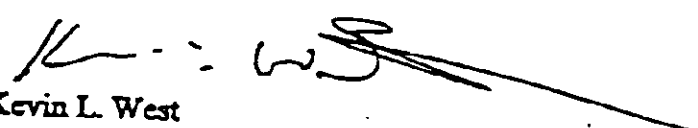
Mr. Calvin Murphy  
DC Office of Personnel  
Office of Compensation and Benefits  
441 4<sup>th</sup> Street, NW, Suite 330S  
Washington, DC 20001

Dear Mr. Murphy:

In response to your question "will all our employees work this summer"? The following response is submitted.

Based on the requirements for Summer School 1999, it is anticipated that all Transportation employees will work this summer. If additional information is needed, please contact me on (202) 576-6228.

Sincerely,

  
Kevin L. West  
Director, Division of Transportation

KLW:rjf

cc: Russell Smith  
Edward Naylor  
Sharon Quinn